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CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY  DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BRUCE DERRICK CALHOUN,

Plaintiff,

vs.

SAN DIEGO COUNTY; et al.,

Defendants.

CASE NO. 10cv1409 BEN (NLS)

**ORDER DENYING MOTION TO  
PROCEED IN FORMA  
PAUPERIS; DENYING REQUEST  
FOR APPOINTMENT OF  
COUNSEL; AND DISMISSING  
ACTION WITH PREJUDICE**

[Docket Nos. 2, 3]

On July 6, 2010, Plaintiff Bruce Derrick Calhoun initiated this action against several defendants including San Diego County, the Justice Department, the FBI, Lloyd Pest Control, Greyhound, CitiBank, and Fox 5 News. Plaintiff alleges Defendants attempted to murder Plaintiff before May 2008 when he was poisoned by Greyhound. Plaintiff seeks one billion dollars.

When filing his Complaint, Plaintiff also filed a Motion to Proceed In Forma Pauperis ("IFP") (Docket No. 2) and a Request for Appointment of Counsel (Docket No. 3). The Court decides the matters on the papers submitted. For the reasons outlined below, the Court **DENIES** Plaintiff's motions and **DISMISSES** the action with prejudice.

**I. Motion to Proceed In Forma Pauperis**

Under Section 1915 of title 28 of the United States Code,

any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding . . . without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such [person] possesses that the person is unable to pay such fees or give security therefor.

1 28 U.S.C. § 1915(a)(1).

2 Here, Plaintiff states he is not currently employed. (Docket No. 2 at 2.) Plaintiff states he  
3 receives \$1,074 per month in social security. *Id.* Although a party need not be completely destitute  
4 to proceed IFP, a party must still show by affidavit or other similarly reliable source that, because of  
5 his or her poverty, he or she cannot pay the filing fee and still provide the “necessities of life” for his  
6 or her family. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948). Plaintiff has  
7 failed to satisfy that requirement here and, therefore, is not excused from paying the \$350 filing fee  
8 to commence this action.

9 Plaintiff’s motion to proceed in forma pauperis is **DENIED**.

## 10 **II. Dismissal of Action With Prejudice**

11 Even if Plaintiff paid the filing fee or had sufficiently demonstrated his indigence, his  
12 Complaint would still be dismissed. A complaint filed by any person proceeding, or seeking to  
13 proceed, in forma pauperis under 28 U.S.C. § 1915(a) is subject to mandatory sua sponte review and  
14 dismissal if the complaint is frivolous or malicious, fails to state a claim upon which relief may be  
15 granted, or seeks monetary relief from a defendant immune from suit. 28 U.S.C. § 1915(e)(2)(B);  
16 *Lopez v. Smith*, 203 F.3d 1122, 1126-27 (9th Cir. 2000).

17 “[T]he court shall dismiss the case at any time if the court determines that . . . the action . . .  
18 is frivolous.” 28 U.S.C. § 1915(e)(2)(B); *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) (finding  
19 “the provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners”). A complaint is frivolous  
20 “where it lacks an arguable basis either in law or fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).  
21 Sua sponte dismissal is proper where the allegations are “fanciful, fantastic, and delusional,” or they  
22 “rise to the level of the irrational or the wholly incredible.” *Denton v. Hernandez*, 504 U.S. 25, 32-33  
23 (1992). Pro se litigants are not “excused from knowing the most basic pleading requirements.” *Am.*  
24 *Assoc. of Naturopathic Physicians v. Hayhurst*, 227 F.3d 1104, 1107 (9th Cir. 2000), *cert. denied* 532  
25 U.S. 1088 (2001).

26 Here, Plaintiff’s Complaint is legally insufficient because it does not identify the basis for relief  
27 or the basis of this Court’s jurisdiction. Plaintiff’s Complaint consists of an allegation of attempted  
28 murder before May 2008 when he was poisoned by Greyhound. From these strange allegations, the

1 cannot even glean the basis, let alone the substance, of Plaintiff's claim. The Court also notes  
 2 Plaintiff's allegations are similar to those set forth in previously filed (and dismissed) complaints in  
 3 this Court. *See, e.g., Calhoun v. San Diego County, et al.*, USDC, Southern District of California,  
 4 Case No. 10-cv-0522 BEN; *Calhoun v. San Diego County, et al.*, USDC, Southern District of  
 5 California, Case No. 10-cv-00009 IEG; *Calhoun v. San Diego County, et al.*, USDC Southern District  
 6 of California, Case No. 10-cv-00271 W; *Calhoun v. San Diego County, et al.*, USDC Southern District  
 7 of California, Case No. 10-cv-00441 IEG.

8 After careful review, the Court finds that Plaintiff's complaint is frivolous and void of any  
 9 plausible claims for relief. Because "it is absolutely clear that the deficiencies of the complaint could  
 10 not be cured by amendment," the Court **DISMISSES** the complaint **with prejudice**. *Franklin v.*  
 11 *Murphy*, 245 F.2d 1221, 1228 n.9 (9th Cir. 1984).

### 12 **III. Appointment of Counsel**

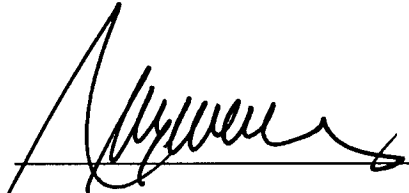
13 Because Plaintiff's Complaint is dismissed, Plaintiff's Request for Appointment of Counsel  
 14 is **DENIED** as moot.

### 15 **CONCLUSION**

16 Plaintiff's Motion to Proceed In Forma Pauperis is **DENIED**. Plaintiff fails to state a claim  
 17 upon which relief may be granted. Accordingly, Plaintiff's Complaint is **DISMISSED WITH**  
 18 **PREJUDICE**. Because Plaintiff's Complaint is dismissed, Plaintiff's Request for Appointment of  
 19 Counsel is **DENIED** as moot.

20  
 21 **IT IS SO ORDERED.**

22 Date: July 11, 2010

23   
 24 Hon. Roger T. Benitez  
 25 United States District Court Judge  
 26  
 27  
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